



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by James H. Meyer

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-12	from Ch. 38, par. 12-12
720 ILCS 5/12-13	from Ch. 38, par. 12-13
720 ILCS 5/12-16	from Ch. 38, par. 12-16
730 ILCS 5/5-5-3	from Ch. 38, par. 1005-5-3
730 ILCS 5/5-9-1.7	from Ch. 38, par. 1005-9-1.7

Amends the Criminal Code of 1961 and the Unified Code of Corrections. Eliminates the distinction between family members and non-family members who commit the offenses of criminal sexual assault and aggravated criminal sexual abuse. Provides that the penalties for these offenses shall be the same if the offender held a position of trust, authority, or supervision in relation to the victim. Eliminates probation for aggravated criminal sexual abuse.

LRB093 18068 RLC 43755 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT in relation to criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 12-12, 12-13, and 12-16 as follows:

6 (720 ILCS 5/12-12) (from Ch. 38, par. 12-12)

7 Sec. 12-12. Definitions. For the purposes of Sections
8 12-13 through 12-18 of this Code, the terms used in these
9 Sections shall have the following meanings ascribed to them:

10 (a) "Accused" means a person accused of an offense
11 prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this
12 Code or a person for whose conduct the accused is legally
13 responsible under Article 5 of this Code.

14 (b) "Bodily harm" means physical harm, and includes, but is
15 not limited to, sexually transmitted disease, pregnancy and
16 impotence.

17 (c) (Blank) ~~"Family member" means a parent, grandparent, or~~
18 ~~child, whether by whole blood, half blood or adoption and~~
19 ~~includes a step grandparent, step parent or step child.~~
20 ~~"Family member" also means, where the victim is a child under~~
21 ~~18 years of age, an accused who has resided in the household~~
22 ~~with such child continuously for at least one year.~~

23 (d) "Force or threat of force" means the use of force or
24 violence, or the threat of force or violence, including but not
25 limited to the following situations:

26 (1) when the accused threatens to use force or violence
27 on the victim or on any other person, and the victim under
28 the circumstances reasonably believed that the accused had
29 the ability to execute that threat; or

30 (2) when the accused has overcome the victim by use of
31 superior strength or size, physical restraint or physical
32 confinement.

1 (e) "Sexual conduct" means any intentional or knowing
2 touching or fondling by the victim or the accused, either
3 directly or through clothing, of the sex organs, anus or breast
4 of the victim or the accused, or any part of the body of a child
5 under 13 years of age, or any transfer or transmission of semen
6 by the accused upon any part of the clothed or unclothed body
7 of the victim, for the purpose of sexual gratification or
8 arousal of the victim or the accused.

9 (f) "Sexual penetration" means any contact, however
10 slight, between the sex organ or anus of one person by an
11 object, the sex organ, mouth or anus of another person, or any
12 intrusion, however slight, of any part of the body of one
13 person or of any animal or object into the sex organ or anus of
14 another person, including but not limited to cunnilingus,
15 fellatio or anal penetration. Evidence of emission of semen is
16 not required to prove sexual penetration.

17 (g) "Victim" means a person alleging to have been subjected
18 to an offense prohibited by Sections 12-13, 12-14, 12-15 or
19 12-16 of this Code.

20 (Source: P.A. 91-116, eff. 1-1-00.)

21 (720 ILCS 5/12-13) (from Ch. 38, par. 12-13)

22 Sec. 12-13. Criminal Sexual Assault.

23 (a) The accused commits criminal sexual assault if he or
24 she:

25 (1) commits an act of sexual penetration by the use of
26 force or threat of force; or

27 (2) commits an act of sexual penetration and the
28 accused knew that the victim was unable to understand the
29 nature of the act or was unable to give knowing consent; or

30 (3) ~~(blank) commits an act of sexual penetration with a~~
31 ~~victim who was under 18 years of age when the act was~~
32 ~~committed and the accused was a family member; or~~

33 (4) commits an act of sexual penetration with a victim
34 who was at least 13 years of age but under 18 years of age
35 when the act was committed and the accused was 17 years of

1 age or over and held a position of trust, authority or
2 supervision in relation to the victim.

3 (b) Sentence.

4 (1) Criminal sexual assault is a Class 1 felony.

5 (2) A person who is convicted of the offense of
6 criminal sexual assault as defined in paragraph (a)(1) or
7 (a)(2) after having previously been convicted of the
8 offense of criminal sexual assault, or who is convicted of
9 the offense of criminal sexual assault as defined in
10 paragraph (a)(1) or (a)(2) after having previously been
11 convicted under the laws of this State or any other state
12 of an offense that is substantially equivalent to the
13 offense of criminal sexual assault, commits a Class X
14 felony for which the person shall be sentenced to a term of
15 imprisonment of not less than 30 years and not more than 60
16 years. The commission of the second or subsequent offense
17 is required to have been after the initial conviction for
18 this paragraph (2) to apply.

19 (3) A person who is convicted of the offense of
20 criminal sexual assault as defined in paragraph (a)(1) or
21 (a)(2) after having previously been convicted of the
22 offense of aggravated criminal sexual assault or the
23 offense of predatory criminal sexual assault of a child, or
24 who is convicted of the offense of criminal sexual assault
25 as defined in paragraph (a)(1) or (a)(2) after having
26 previously been convicted under the laws of this State or
27 any other state of an offense that is substantially
28 equivalent to the offense of aggravated criminal sexual
29 assault or the offense of criminal predatory sexual assault
30 shall be sentenced to a term of natural life imprisonment.
31 The commission of the second or subsequent offense is
32 required to have been after the initial conviction for this
33 paragraph (3) to apply.

34 (4) A second or subsequent conviction for a violation
35 of paragraph ~~(a)(3) or~~ (a)(4) or under any similar statute
36 of this State or any other state for any offense involving

1 criminal sexual assault that is substantially equivalent
2 to or more serious than the sexual assault prohibited under
3 paragraph ~~(a) (3)~~ or (a) (4) is a Class X felony.

4 (5) When a person has any such prior conviction, the
5 information or indictment charging that person shall state
6 such prior conviction so as to give notice of the State's
7 intention to treat the charge as a Class X felony. The fact
8 of such prior conviction is not an element of the offense
9 and may not be disclosed to the jury during trial unless
10 otherwise permitted by issues properly raised during such
11 trial.

12 (Source: P.A. 90-396, eff. 1-1-98.)

13 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

14 Sec. 12-16. Aggravated Criminal Sexual Abuse.

15 (a) The accused commits aggravated criminal sexual abuse if
16 he or she commits criminal sexual abuse as defined in
17 subsection (a) of Section 12-15 of this Code and any of the
18 following aggravating circumstances existed during, or for the
19 purposes of paragraph (7) of this subsection (a) as part of the
20 same course of conduct as, the commission of the offense:

21 (1) the accused displayed, threatened to use or used a
22 dangerous weapon or any object fashioned or utilized in
23 such a manner as to lead the victim under the circumstances
24 reasonably to believe it to be a dangerous weapon; or

25 (2) the accused caused bodily harm to the victim; or

26 (3) the victim was 60 years of age or over when the
27 offense was committed; or

28 (4) the victim was a physically handicapped person; or

29 (5) the accused acted in such a manner as to threaten
30 or endanger the life of the victim or any other person; or

31 (6) the criminal sexual abuse was perpetrated during
32 the course of the commission or attempted commission of any
33 other felony by the accused; or

34 (7) the accused delivered (by injection, inhalation,
35 ingestion, transfer of possession, or any other means) to

1 the victim without his or her consent, or by threat or
2 deception, and for other than medical purposes, any
3 controlled substance.

4 (b) (Blank) ~~The accused commits aggravated criminal sexual~~
5 ~~abuse if he or she commits an act of sexual conduct with a~~
6 ~~victim who was under 18 years of age when the act was committed~~
7 ~~and the accused was a family member.~~

8 (c) The accused commits aggravated criminal sexual abuse
9 if:

10 (1) the accused was 17 years of age or over and (i)
11 commits an act of sexual conduct with a victim who was
12 under 13 years of age when the act was committed; or (ii)
13 commits an act of sexual conduct with a victim who was at
14 least 13 years of age but under 17 years of age when the
15 act was committed and the accused used force or threat of
16 force to commit the act; or

17 (2) the accused was under 17 years of age and (i)
18 commits an act of sexual conduct with a victim who was
19 under 9 years of age when the act was committed; or (ii)
20 commits an act of sexual conduct with a victim who was at
21 least 9 years of age but under 17 years of age when the act
22 was committed and the accused used force or threat of force
23 to commit the act.

24 (d) The accused commits aggravated criminal sexual abuse if
25 he or she commits an act of sexual penetration or sexual
26 conduct with a victim who was at least 13 years of age but
27 under 17 years of age and the accused was at least 5 years
28 older than the victim.

29 (e) The accused commits aggravated criminal sexual abuse if
30 he or she commits an act of sexual conduct with a victim who
31 was a severely or profoundly mentally retarded person at the
32 time the act was committed.

33 (f) The accused commits aggravated criminal sexual abuse if
34 he or she commits an act of sexual conduct with a victim who
35 was at least 13 years of age but under 18 years of age when the
36 act was committed and the accused was 17 years of age or over

1 and held a position of trust, authority or supervision in
2 relation to the victim.

3 (g) Sentence. Aggravated criminal sexual abuse is a Class 2
4 felony.

5 (Source: P.A. 92-434, eff. 1-1-02.)

6 Section 10. The Unified Code of Corrections is amended by
7 changing Sections 5-5-3 and 5-9-1.7 as follows:

8 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

9 Sec. 5-5-3. Disposition.

10 (a) Every person convicted of an offense shall be sentenced
11 as provided in this Section.

12 (b) The following options shall be appropriate
13 dispositions, alone or in combination, for all felonies and
14 misdemeanors other than those identified in subsection (c) of
15 this Section:

16 (1) A period of probation.

17 (2) A term of periodic imprisonment.

18 (3) A term of conditional discharge.

19 (4) A term of imprisonment.

20 (5) An order directing the offender to clean up and
21 repair the damage, if the offender was convicted under
22 paragraph (h) of Section 21-1 of the Criminal Code of 1961
23 (now repealed).

24 (6) A fine.

25 (7) An order directing the offender to make restitution
26 to the victim under Section 5-5-6 of this Code.

27 (8) A sentence of participation in a county impact
28 incarceration program under Section 5-8-1.2 of this Code.

29 Whenever an individual is sentenced for an offense based
30 upon an arrest for a violation of Section 11-501 of the
31 Illinois Vehicle Code, or a similar provision of a local
32 ordinance, and the professional evaluation recommends remedial
33 or rehabilitative treatment or education, neither the
34 treatment nor the education shall be the sole disposition and

1 either or both may be imposed only in conjunction with another
2 disposition. The court shall monitor compliance with any
3 remedial education or treatment recommendations contained in
4 the professional evaluation. Programs conducting alcohol or
5 other drug evaluation or remedial education must be licensed by
6 the Department of Human Services. However, if the individual is
7 not a resident of Illinois, the court may accept an alcohol or
8 other drug evaluation or remedial education program in the
9 state of such individual's residence. Programs providing
10 treatment must be licensed under existing applicable
11 alcoholism and drug treatment licensure standards.

12 In addition to any other fine or penalty required by law,
13 any individual convicted of a violation of Section 11-501 of
14 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
15 Registration and Safety Act, Section 5-16 of the Boat
16 Registration and Safety Act, or a similar provision of local
17 ordinance, whose operation of a motor vehicle while in
18 violation of Section 11-501, Section 5-7, Section 5-16, or such
19 ordinance proximately caused an incident resulting in an
20 appropriate emergency response, shall be required to make
21 restitution to a public agency for the costs of that emergency
22 response. Such restitution shall not exceed \$1,000 per public
23 agency for each such emergency response. For the purpose of
24 this paragraph, emergency response shall mean any incident
25 requiring a response by: a police officer as defined under
26 Section 1-162 of the Illinois Vehicle Code; a fireman carried
27 on the rolls of a regularly constituted fire department; and an
28 ambulance as defined under Section 3.85 of the Emergency
29 Medical Services (EMS) Systems Act.

30 Neither a fine nor restitution shall be the sole
31 disposition for a felony and either or both may be imposed only
32 in conjunction with another disposition.

33 (c) (1) When a defendant is found guilty of first degree
34 murder the State may either seek a sentence of imprisonment
35 under Section 5-8-1 of this Code, or where appropriate seek
36 a sentence of death under Section 9-1 of the Criminal Code

1 of 1961.

2 (2) A period of probation, a term of periodic
3 imprisonment or conditional discharge shall not be imposed
4 for the following offenses. The court shall sentence the
5 offender to not less than the minimum term of imprisonment
6 set forth in this Code for the following offenses, and may
7 order a fine or restitution or both in conjunction with
8 such term of imprisonment:

9 (A) First degree murder where the death penalty is
10 not imposed.

11 (B) Attempted first degree murder.

12 (C) A Class X felony.

13 (D) A violation of Section 401.1 or 407 of the
14 Illinois Controlled Substances Act, or a violation of
15 subdivision (c) (1) or (c) (2) of Section 401 of that Act
16 which relates to more than 5 grams of a substance
17 containing heroin or cocaine or an analog thereof.

18 (E) A violation of Section 5.1 or 9 of the Cannabis
19 Control Act.

20 (F) A Class 2 or greater felony if the offender had
21 been convicted of a Class 2 or greater felony within 10
22 years of the date on which the offender committed the
23 offense for which he or she is being sentenced, except
24 as otherwise provided in Section 40-10 of the
25 Alcoholism and Other Drug Abuse and Dependency Act.

26 (G) Residential burglary, except as otherwise
27 provided in Section 40-10 of the Alcoholism and Other
28 Drug Abuse and Dependency Act.

29 (H) Criminal sexual assault or aggravated criminal
30 sexual abuse.

31 (I) Aggravated battery of a senior citizen.

32 (J) A forcible felony if the offense was related to
33 the activities of an organized gang.

34 Before July 1, 1994, for the purposes of this
35 paragraph, "organized gang" means an association of 5
36 or more persons, with an established hierarchy, that

1 encourages members of the association to perpetrate
2 crimes or provides support to the members of the
3 association who do commit crimes.

4 Beginning July 1, 1994, for the purposes of this
5 paragraph, "organized gang" has the meaning ascribed
6 to it in Section 10 of the Illinois Streetgang
7 Terrorism Omnibus Prevention Act.

8 (K) Vehicular hijacking.

9 (L) A second or subsequent conviction for the
10 offense of hate crime when the underlying offense upon
11 which the hate crime is based is felony aggravated
12 assault or felony mob action.

13 (M) A second or subsequent conviction for the
14 offense of institutional vandalism if the damage to the
15 property exceeds \$300.

16 (N) A Class 3 felony violation of paragraph (1) of
17 subsection (a) of Section 2 of the Firearm Owners
18 Identification Card Act.

19 (O) A violation of Section 12-6.1 of the Criminal
20 Code of 1961.

21 (P) A violation of paragraph (1), (2), (3), (4),
22 (5), or (7) of subsection (a) of Section 11-20.1 of the
23 Criminal Code of 1961.

24 (Q) A violation of Section 20-1.2 or 20-1.3 of the
25 Criminal Code of 1961.

26 (R) A violation of Section 24-3A of the Criminal
27 Code of 1961.

28 (S) A violation of Section 11-501(c-1)(3) of the
29 Illinois Vehicle Code.

30 (T) A second or subsequent violation of paragraph
31 (6.6) of subsection (a), subsection (c-5), or
32 subsection (d-5) of Section 401 of the Illinois
33 Controlled Substances Act.

34 (3) A minimum term of imprisonment of not less than 5
35 days or 30 days of community service as may be determined
36 by the court shall be imposed for a second violation

1 committed within 5 years of a previous violation of Section
2 11-501 of the Illinois Vehicle Code or a similar provision
3 of a local ordinance. In the case of a third or subsequent
4 violation committed within 5 years of a previous violation
5 of Section 11-501 of the Illinois Vehicle Code or a similar
6 provision of a local ordinance, a minimum term of either 10
7 days of imprisonment or 60 days of community service shall
8 be imposed.

9 (4) A minimum term of imprisonment of not less than 10
10 consecutive days or 30 days of community service shall be
11 imposed for a violation of paragraph (c) of Section 6-303
12 of the Illinois Vehicle Code.

13 (4.1) A minimum term of 30 consecutive days of
14 imprisonment, 40 days of 24 hour periodic imprisonment or
15 720 hours of community service, as may be determined by the
16 court, shall be imposed for a violation of Section 11-501
17 of the Illinois Vehicle Code during a period in which the
18 defendant's driving privileges are revoked or suspended,
19 where the revocation or suspension was for a violation of
20 Section 11-501 or Section 11-501.1 of that Code.

21 (4.2) Except as provided in paragraph (4.3) of this
22 subsection (c), a minimum of 100 hours of community service
23 shall be imposed for a second violation of Section 6-303 of
24 the Illinois Vehicle Code.

25 (4.3) A minimum term of imprisonment of 30 days or 300
26 hours of community service, as determined by the court,
27 shall be imposed for a second violation of subsection (c)
28 of Section 6-303 of the Illinois Vehicle Code.

29 (4.4) Except as provided in paragraph (4.5) and
30 paragraph (4.6) of this subsection (c), a minimum term of
31 imprisonment of 30 days or 300 hours of community service,
32 as determined by the court, shall be imposed for a third or
33 subsequent violation of Section 6-303 of the Illinois
34 Vehicle Code.

35 (4.5) A minimum term of imprisonment of 30 days shall
36 be imposed for a third violation of subsection (c) of

1 Section 6-303 of the Illinois Vehicle Code.

2

3 (4.6) A minimum term of imprisonment of 180 days shall
4 be imposed for a fourth or subsequent violation of
5 subsection (c) of Section 6-303 of the Illinois Vehicle
6 Code.

7 (5) The court may sentence an offender convicted of a
8 business offense or a petty offense or a corporation or
9 unincorporated association convicted of any offense to:

10 (A) a period of conditional discharge;

11 (B) a fine;

12 (C) make restitution to the victim under Section
13 5-5-6 of this Code.

14 (5.1) In addition to any penalties imposed under
15 paragraph (5) of this subsection (c), and except as
16 provided in paragraph (5.2) or (5.3), a person convicted of
17 violating subsection (c) of Section 11-907 of the Illinois
18 Vehicle Code shall have his or her driver's license,
19 permit, or privileges suspended for at least 90 days but
20 not more than one year, if the violation resulted in damage
21 to the property of another person.

22 (5.2) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), and except as
24 provided in paragraph (5.3), a person convicted of
25 violating subsection (c) of Section 11-907 of the Illinois
26 Vehicle Code shall have his or her driver's license,
27 permit, or privileges suspended for at least 180 days but
28 not more than 2 years, if the violation resulted in injury
29 to another person.

30 (5.3) In addition to any penalties imposed under
31 paragraph (5) of this subsection (c), a person convicted of
32 violating subsection (c) of Section 11-907 of the Illinois
33 Vehicle Code shall have his or her driver's license,
34 permit, or privileges suspended for 2 years, if the
35 violation resulted in the death of another person.

36 (6) In no case shall an offender be eligible for a

1 disposition of probation or conditional discharge for a
2 Class 1 felony committed while he was serving a term of
3 probation or conditional discharge for a felony.

4 (7) When a defendant is adjudged a habitual criminal
5 under Article 33B of the Criminal Code of 1961, the court
6 shall sentence the defendant to a term of natural life
7 imprisonment.

8 (8) When a defendant, over the age of 21 years, is
9 convicted of a Class 1 or Class 2 felony, after having
10 twice been convicted in any state or federal court of an
11 offense that contains the same elements as an offense now
12 classified in Illinois as a Class 2 or greater Class felony
13 and such charges are separately brought and tried and arise
14 out of different series of acts, such defendant shall be
15 sentenced as a Class X offender. This paragraph shall not
16 apply unless (1) the first felony was committed after the
17 effective date of this amendatory Act of 1977; and (2) the
18 second felony was committed after conviction on the first;
19 and (3) the third felony was committed after conviction on
20 the second. A person sentenced as a Class X offender under
21 this paragraph is not eligible to apply for treatment as a
22 condition of probation as provided by Section 40-10 of the
23 Alcoholism and Other Drug Abuse and Dependency Act.

24 (9) A defendant convicted of a second or subsequent
25 offense of ritualized abuse of a child may be sentenced to
26 a term of natural life imprisonment.

27 (10) When a person is convicted of violating Section
28 11-501 of the Illinois Vehicle Code or a similar provision
29 of a local ordinance, the following penalties apply when
30 his or her blood, breath, or urine was .16 or more based on
31 the definition of blood, breath, or urine units in Section
32 11-501.2 or that person is convicted of violating Section
33 11-501 of the Illinois Vehicle Code while transporting a
34 child under the age of 16:

35 (A) For a first violation of subsection (a) of
36 Section 11-501, in addition to any other penalty that

1 may be imposed under subsection (c) of Section 11-501:
2 a mandatory minimum of 100 hours of community service
3 and a minimum fine of \$500.

4 (B) For a second violation of subsection (a) of
5 Section 11-501, in addition to any other penalty that
6 may be imposed under subsection (c) of Section 11-501
7 within 10 years: a mandatory minimum of 2 days of
8 imprisonment and a minimum fine of \$1,250.

9 (C) For a third violation of subsection (a) of
10 Section 11-501, in addition to any other penalty that
11 may be imposed under subsection (c) of Section 11-501
12 within 20 years: a mandatory minimum of 90 days of
13 imprisonment and a minimum fine of \$2,500.

14 (D) For a fourth or subsequent violation of
15 subsection (a) of Section 11-501: ineligibility for a
16 sentence of probation or conditional discharge and a
17 minimum fine of \$2,500.

18 (d) In any case in which a sentence originally imposed is
19 vacated, the case shall be remanded to the trial court. The
20 trial court shall hold a hearing under Section 5-4-1 of the
21 Unified Code of Corrections which may include evidence of the
22 defendant's life, moral character and occupation during the
23 time since the original sentence was passed. The trial court
24 shall then impose sentence upon the defendant. The trial court
25 may impose any sentence which could have been imposed at the
26 original trial subject to Section 5-5-4 of the Unified Code of
27 Corrections. If a sentence is vacated on appeal or on
28 collateral attack due to the failure of the trier of fact at
29 trial to determine beyond a reasonable doubt the existence of a
30 fact (other than a prior conviction) necessary to increase the
31 punishment for the offense beyond the statutory maximum
32 otherwise applicable, either the defendant may be re-sentenced
33 to a term within the range otherwise provided or, if the State
34 files notice of its intention to again seek the extended
35 sentence, the defendant shall be afforded a new trial.

36 (e) (Blank). ~~In cases where prosecution for aggravated~~

~~eriminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:~~

~~(1) the court finds (A) or (B) or both are appropriate:~~

~~(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or~~

~~(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:~~

~~(i) removal from the household;~~

~~(ii) restricted contact with the victim;~~

~~(iii) continued financial support of the family;~~

~~(iv) restitution for harm done to the victim;~~

~~and~~

~~(v) compliance with any other measures that the court may deem appropriate; and~~

~~(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.~~

~~Probation may be revoked or modified pursuant to Section 5-6-4, except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.~~

~~For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section~~

1 ~~12-12 of the Criminal Code of 1961.~~

2 (f) This Article shall not deprive a court in other
3 proceedings to order a forfeiture of property, to suspend or
4 cancel a license, to remove a person from office, or to impose
5 any other civil penalty.

6 (g) Whenever a defendant is convicted of an offense under
7 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
8 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
9 of the Criminal Code of 1961, the defendant shall undergo
10 medical testing to determine whether the defendant has any
11 sexually transmissible disease, including a test for infection
12 with human immunodeficiency virus (HIV) or any other identified
13 causative agent of acquired immunodeficiency syndrome (AIDS).
14 Any such medical test shall be performed only by appropriately
15 licensed medical practitioners and may include an analysis of
16 any bodily fluids as well as an examination of the defendant's
17 person. Except as otherwise provided by law, the results of
18 such test shall be kept strictly confidential by all medical
19 personnel involved in the testing and must be personally
20 delivered in a sealed envelope to the judge of the court in
21 which the conviction was entered for the judge's inspection in
22 camera. Acting in accordance with the best interests of the
23 victim and the public, the judge shall have the discretion to
24 determine to whom, if anyone, the results of the testing may be
25 revealed. The court shall notify the defendant of the test
26 results. The court shall also notify the victim if requested by
27 the victim, and if the victim is under the age of 15 and if
28 requested by the victim's parents or legal guardian, the court
29 shall notify the victim's parents or legal guardian of the test
30 results. The court shall provide information on the
31 availability of HIV testing and counseling at Department of
32 Public Health facilities to all parties to whom the results of
33 the testing are revealed and shall direct the State's Attorney
34 to provide the information to the victim when possible. A
35 State's Attorney may petition the court to obtain the results
36 of any HIV test administered under this Section, and the court

1 shall grant the disclosure if the State's Attorney shows it is
2 relevant in order to prosecute a charge of criminal
3 transmission of HIV under Section 12-16.2 of the Criminal Code
4 of 1961 against the defendant. The court shall order that the
5 cost of any such test shall be paid by the county and may be
6 taxed as costs against the convicted defendant.

7 (g-5) When an inmate is tested for an airborne communicable
8 disease, as determined by the Illinois Department of Public
9 Health including but not limited to tuberculosis, the results
10 of the test shall be personally delivered by the warden or his
11 or her designee in a sealed envelope to the judge of the court
12 in which the inmate must appear for the judge's inspection in
13 camera if requested by the judge. Acting in accordance with the
14 best interests of those in the courtroom, the judge shall have
15 the discretion to determine what if any precautions need to be
16 taken to prevent transmission of the disease in the courtroom.

17 (h) Whenever a defendant is convicted of an offense under
18 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
19 defendant shall undergo medical testing to determine whether
20 the defendant has been exposed to human immunodeficiency virus
21 (HIV) or any other identified causative agent of acquired
22 immunodeficiency syndrome (AIDS). Except as otherwise provided
23 by law, the results of such test shall be kept strictly
24 confidential by all medical personnel involved in the testing
25 and must be personally delivered in a sealed envelope to the
26 judge of the court in which the conviction was entered for the
27 judge's inspection in camera. Acting in accordance with the
28 best interests of the public, the judge shall have the
29 discretion to determine to whom, if anyone, the results of the
30 testing may be revealed. The court shall notify the defendant
31 of a positive test showing an infection with the human
32 immunodeficiency virus (HIV). The court shall provide
33 information on the availability of HIV testing and counseling
34 at Department of Public Health facilities to all parties to
35 whom the results of the testing are revealed and shall direct
36 the State's Attorney to provide the information to the victim

1 when possible. A State's Attorney may petition the court to
2 obtain the results of any HIV test administered under this
3 Section, and the court shall grant the disclosure if the
4 State's Attorney shows it is relevant in order to prosecute a
5 charge of criminal transmission of HIV under Section 12-16.2 of
6 the Criminal Code of 1961 against the defendant. The court
7 shall order that the cost of any such test shall be paid by the
8 county and may be taxed as costs against the convicted
9 defendant.

10 (i) All fines and penalties imposed under this Section for
11 any violation of Chapters 3, 4, 6, and 11 of the Illinois
12 Vehicle Code, or a similar provision of a local ordinance, and
13 any violation of the Child Passenger Protection Act, or a
14 similar provision of a local ordinance, shall be collected and
15 disbursed by the circuit clerk as provided under Section 27.5
16 of the Clerks of Courts Act.

17 (j) In cases when prosecution for any violation of Section
18 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
19 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
20 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
21 Code of 1961, any violation of the Illinois Controlled
22 Substances Act, or any violation of the Cannabis Control Act
23 results in conviction, a disposition of court supervision, or
24 an order of probation granted under Section 10 of the Cannabis
25 Control Act or Section 410 of the Illinois Controlled Substance
26 Act of a defendant, the court shall determine whether the
27 defendant is employed by a facility or center as defined under
28 the Child Care Act of 1969, a public or private elementary or
29 secondary school, or otherwise works with children under 18
30 years of age on a daily basis. When a defendant is so employed,
31 the court shall order the Clerk of the Court to send a copy of
32 the judgment of conviction or order of supervision or probation
33 to the defendant's employer by certified mail. If the employer
34 of the defendant is a school, the Clerk of the Court shall
35 direct the mailing of a copy of the judgment of conviction or
36 order of supervision or probation to the appropriate regional

1 superintendent of schools. The regional superintendent of
2 schools shall notify the State Board of Education of any
3 notification under this subsection.

4 (j-5) A defendant at least 17 years of age who is convicted
5 of a felony and who has not been previously convicted of a
6 misdemeanor or felony and who is sentenced to a term of
7 imprisonment in the Illinois Department of Corrections shall as
8 a condition of his or her sentence be required by the court to
9 attend educational courses designed to prepare the defendant
10 for a high school diploma and to work toward a high school
11 diploma or to work toward passing the high school level Test of
12 General Educational Development (GED) or to work toward
13 completing a vocational training program offered by the
14 Department of Corrections. If a defendant fails to complete the
15 educational training required by his or her sentence during the
16 term of incarceration, the Prisoner Review Board shall, as a
17 condition of mandatory supervised release, require the
18 defendant, at his or her own expense, to pursue a course of
19 study toward a high school diploma or passage of the GED test.
20 The Prisoner Review Board shall revoke the mandatory supervised
21 release of a defendant who wilfully fails to comply with this
22 subsection (j-5) upon his or her release from confinement in a
23 penal institution while serving a mandatory supervised release
24 term; however, the inability of the defendant after making a
25 good faith effort to obtain financial aid or pay for the
26 educational training shall not be deemed a wilful failure to
27 comply. The Prisoner Review Board shall recommit the defendant
28 whose mandatory supervised release term has been revoked under
29 this subsection (j-5) as provided in Section 3-3-9. This
30 subsection (j-5) does not apply to a defendant who has a high
31 school diploma or has successfully passed the GED test. This
32 subsection (j-5) does not apply to a defendant who is
33 determined by the court to be developmentally disabled or
34 otherwise mentally incapable of completing the educational or
35 vocational program.

36 (k) A court may not impose a sentence or disposition for a

1 felony or misdemeanor that requires the defendant to be
2 implanted or injected with or to use any form of birth control.

3 (1) (A) Except as provided in paragraph (C) of subsection
4 (1), whenever a defendant, who is an alien as defined by
5 the Immigration and Nationality Act, is convicted of any
6 felony or misdemeanor offense, the court after sentencing
7 the defendant may, upon motion of the State's Attorney,
8 hold sentence in abeyance and remand the defendant to the
9 custody of the Attorney General of the United States or his
10 or her designated agent to be deported when:

11 (1) a final order of deportation has been issued
12 against the defendant pursuant to proceedings under
13 the Immigration and Nationality Act, and

14 (2) the deportation of the defendant would not
15 deprecate the seriousness of the defendant's conduct
16 and would not be inconsistent with the ends of justice.

17 Otherwise, the defendant shall be sentenced as
18 provided in this Chapter V.

19 (B) If the defendant has already been sentenced for a
20 felony or misdemeanor offense, or has been placed on
21 probation under Section 10 of the Cannabis Control Act or
22 Section 410 of the Illinois Controlled Substances Act, the
23 court may, upon motion of the State's Attorney to suspend
24 the sentence imposed, commit the defendant to the custody
25 of the Attorney General of the United States or his or her
26 designated agent when:

27 (1) a final order of deportation has been issued
28 against the defendant pursuant to proceedings under
29 the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of justice.

33 (C) This subsection (1) does not apply to offenders who
34 are subject to the provisions of paragraph (2) of
35 subsection (a) of Section 3-6-3.

36 (D) Upon motion of the State's Attorney, if a defendant

1 sentenced under this Section returns to the jurisdiction of
2 the United States, the defendant shall be recommitted to
3 the custody of the county from which he or she was
4 sentenced. Thereafter, the defendant shall be brought
5 before the sentencing court, which may impose any sentence
6 that was available under Section 5-5-3 at the time of
7 initial sentencing. In addition, the defendant shall not be
8 eligible for additional good conduct credit for
9 meritorious service as provided under Section 3-6-6.

10 (m) A person convicted of criminal defacement of property
11 under Section 21-1.3 of the Criminal Code of 1961, in which the
12 property damage exceeds \$300 and the property damaged is a
13 school building, shall be ordered to perform community service
14 that may include cleanup, removal, or painting over the
15 defacement.

16 (n) The court may sentence a person convicted of a
17 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
18 Code of 1961 (i) to an impact incarceration program if the
19 person is otherwise eligible for that program under Section
20 5-8-1.1, (ii) to community service, or (iii) if the person is
21 an addict or alcoholic, as defined in the Alcoholism and Other
22 Drug Abuse and Dependency Act, to a substance or alcohol abuse
23 program licensed under that Act.

24 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
25 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
26 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
27 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
28 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
29 eff. 1-1-04; revised 10-9-03.)

30 (730 ILCS 5/5-9-1.7) (from Ch. 38, par. 1005-9-1.7)

31 Sec. 5-9-1.7. Sexual assault fines.

32 (a) Definitions. The terms used in this Section shall have
33 the following meanings ascribed to them:

34 (1) "Sexual assault" means the commission or attempted
35 commission of the following: criminal sexual assault,

1 predatory criminal sexual assault of a child, aggravated
2 criminal sexual assault, criminal sexual abuse, aggravated
3 criminal sexual abuse, indecent solicitation of a child,
4 public indecency, sexual relations within families,
5 soliciting for a juvenile prostitute, keeping a place of
6 juvenile prostitution, patronizing a juvenile prostitute,
7 juvenile pimping, exploitation of a child, obscenity,
8 child pornography, or harmful material, as those offenses
9 are defined in the Criminal Code of 1961.

10 (2) "Family member" shall have the meaning ascribed to
11 it in Section 12-12 of the Criminal Code of 1961.

12 (3) "Sexual assault organization" means any
13 not-for-profit organization providing comprehensive,
14 community-based services to victims of sexual assault.
15 "Community-based services" include, but are not limited
16 to, direct crisis intervention through a 24-hour response,
17 medical and legal advocacy, counseling, information and
18 referral services, training, and community education.

19 (b) Sexual assault fine; collection by clerk.

20 (1) In addition to any other penalty imposed, a fine of
21 \$100 shall be imposed upon any person who pleads guilty or
22 who is convicted of, or who receives a disposition of court
23 supervision for, a sexual assault or attempt of a sexual
24 assault. Upon request of the victim or the victim's
25 representative, the court shall determine whether the fine
26 will impose an undue burden on the victim of the offense.
27 For purposes of this paragraph, the defendant may not be
28 considered the victim's representative. If the court finds
29 that the fine would impose an undue burden on the victim,
30 the court may reduce or waive the fine. The court shall
31 order that the defendant may not use funds belonging solely
32 to the victim of the offense for payment of the fine.

33 (2) Sexual assault fines shall be assessed by the court
34 imposing the sentence and shall be collected by the circuit
35 clerk. The circuit clerk shall retain 10% of the penalty to
36 cover the costs involved in administering and enforcing

1 this Section. The circuit clerk shall remit the remainder
2 of each fine within one month of its receipt to the State
3 Treasurer for deposit as follows:

4 (i) for offenders who held a position of trust,
5 authority, or supervision in relation to the victim
6 ~~family member offenders~~, one-half to the Sexual
7 Assault Services Fund, and one-half to the Domestic
8 Violence Shelter and Service Fund; and

9 (ii) for other than offenders who held a position
10 of trust, authority, or supervision in relation to the
11 victim ~~family member offenders~~, the full amount to the
12 Sexual Assault Services Fund.

13 (c) Sexual Assault Services Fund; administration. There is
14 created a Sexual Assault Services Fund. Moneys deposited into
15 the Fund under this Section shall be appropriated to the
16 Department of Public Health. Upon appropriation of moneys from
17 the Sexual Assault Services Fund, the Department of Public
18 Health shall make grants of these moneys from the Fund to
19 sexual assault organizations with whom the Department has
20 contracts for the purpose of providing community-based
21 services to victims of sexual assault. Grants made under this
22 Section are in addition to, and are not substitutes for, other
23 grants authorized and made by the Department.

24 (Source: P.A. 88-45; 89-428, eff. 12-13-95; 89-462, eff.
25 5-29-96.)